

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Order Instituting Rulemaking To Evaluate
Telecommunications Corporations Service
Quality Performance and Consider
Modification to Service Quality Rules.

Rulemaking 11-12-001
(Filed December 1, 2011)

**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES
ON COMMISSIONER SANDOVAL'S ALTERNATE PROPOSED DECISION
ADOPTING GENERAL ORDER 133-D**

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SUMMARY OF RECOMMENDED CHANGES

The Office of Ratepayer Advocates strongly supports Commissioner Sandoval's June 22, 2016 Alternate Proposed Decision ("APD"). However, the new General Order ("G.O.") 133-D, attached to the APD as Attachment B, does not accurately reflect the APD's order with respect to extending service quality reporting and standards to certain Voice over Internet Protocol ("VoIP") providers. Additionally, the Commission should modify the APD (and the new G.O. 133-D) to eliminate the exemptions for reporting on installation service quality metrics. Accordingly, the Commission should:

- Update G.O. 133-D in sections 3.3, 3.4 and 3.5 to be consistent with the APD discussion on pages 13-14, which makes clear that service quality reporting and standards apply to VoIP providers that have a Certificate of Public Convenience and are designated as an Eligible Telecommunications Carrier or are authorized to provide California LifeLine.
- Modify the APD and update G.O. 133-D in sections 3.1 and 3.2 to reflect that all classes of telephone corporations must report on installation service quality metrics (i.e., no exemptions).

I. INTRODUCTION

Pursuant to Rule 14.3 of the California Public Utilities Commission's ("Commission") Rules of Practice and Procedure, the Office of Ratepayer Advocates ("ORA") submits these comments in support of Commissioner Sandoval's June 22, 2016 Alternate Proposed Decision ("APD"), which would update the current General Order ("G.O.") 133-C service quality rules for telecommunications providers to be more consistent with both the Commission's statutory duty to protect the public and its "technology-neutral" policy goal. For example, the APD extends reporting of Major Service Interruptions to certain Voice over Internet Protocol (VoIP) providers.¹ The APD adopts a new reporting threshold appropriate for rural areas that would capture more outages.² The APD also adopts a penalty mechanism to encourage compliance with service quality standards, where the record has shown that past noncompliance by the largest ILECs raised serious public safety concerns.³ ORA supports all of these rules.

It appears, however, that the APD's proposed new G.O. 133-D, attached to the APD as Attachment B, inadvertently did not include all of the APD's modifications from President Picker's May 22, 2016 Proposed Decision. The Commission should update the new G.O. 133-D to reflect all of the APD's adopted or modified rules. Specifically, G.O. 133-D, at sections 3.3, 3.4 and 3.5 should state clearly that service quality reporting and standards apply to VoIP providers that have a Certificate of Public Convenience and are designated as an Eligible Telecommunications Carrier or are authorized to provide California LifeLine.

¹ See APD, at 15-16; *see also* New G.O. 133-D, §4.

² See APD, at 21; *see also* New G.O. 133-D, §4.2.

³ See APD, at 29; *see also* New G.O. 133-D, §9.1. Noncompliance issues with the two largest ILECs, AT&T and Verizon, were what prompted the Commission to institute this rulemaking to determine whether its service quality rules were sufficient to ensure the provision of safe and reliable service from telecommunications providers. See APD, at 27-28.

Additionally, the Commission should modify the APD and the new G.O. 133-D at sections 3.1 and 3.2 to clearly state that all classes of telephone corporations must report on service quality metrics related to installations (i.e., no exemptions). The record supports this conclusion, rather than the continued exemptions the APD proposes. Attachment A to these comments provides ORA's recommended updates to G.O. 133-D, as well as proposed facts, conclusions of laws, and ordering paragraphs.

II. THE NEW G.O. 133-D SHOULD BE UPDATED TO CLEARLY STATE THAT DESIGNATED VOIP PROVIDERS MUST REPORT ON ALL SERVICE QUALITY STANDARDS.

The APD correctly orders service quality measures and standards to be applicable to “interconnected VoIP providers that have a CPCN, have been designated as a Federal ETC in California and/or provide California Lifeline service.”⁴ In reaching this conclusion, the APD analyzes the statutes that govern the Commission's regulatory authority over VoIP services and correctly concludes that Pub. Util. Code §710(f) “expressly provides that the Commission has the authority ‘to continue to monitor and discuss VoIP services.’”⁵ The APD aptly recognizes that Pub. Util. Code §451 charges the Commission with ensuring telecommunications carriers provide safe and reliable telephone service.⁶ These statutory directives support the APD's requirement that designated VoIP service providers submit reports for all of the service quality standards contained in G.O. 133-D.

However, the *draft New G.O. 133-D* (Attachment B to the APD) does not reflect this conclusion of the APD. Rather, each of the service quality standards in Attachment B contains language limiting applicability to various carriers defined by the Uniform

⁴ APD at 14.

⁵ APD at 34, *citing* Cal. Pub. Util. Code §710(f).

⁶ APD at 36, *citing* Cal. Pub. Util. Code §451. *See also* Finding of Fact 10; Conclusions of Law 8 & 9.

Regulatory Framework (“URF”) decision.⁷ G.O. 133-D should explicitly state that the standard and reporting now apply to interconnected VoIP providers. The language quoted from the APD (see above) designating the specific categories of VoIP providers that must report on service quality standards should also be included in the New G.O. 133-D.⁸ See Attachment A for ORA recommended updates to New G.O. 133-D.

III. INSTALLATION INTERVAL AND INSTALLATION COMMITMENTS STANDARDS AND REPORTING SHOULD BE REQUIRED FROM ALL CARRIERS.

The APD consistently advances concepts of technological neutrality, as well as neutrality between classes of carriers. It follows then that all of the service quality standards and reporting requirements of the New G.O. 133-D should apply to all classes of carriers without exemptions. However, the language of the New G.O. 133-D would require reporting on Installation Intervals and Installation Commitments only from General Rate Case incumbent local exchange carriers (“GRC ILECs”).⁹ Unfortunately, the APD does not discuss extending the applicability of the Installation Interval and Installation Commitment service quality metrics to all carriers, even though the record supports it.

As ORA demonstrated in this proceeding, timely installation of voice services is a matter of public safety.¹⁰ Customers without access to voice service will be unable to summon assistance during emergencies. Given the performance of non-GRC carriers (i.e., AT&T and Verizon) in consistently failing to meet other service quality standards, there is no reason to exempt them from these safety-related standards.

⁷ See Draft New G.O. 133-D, §§ 3.3, 3.4, 3.5.

⁸ This language designating the VoIP providers to which service quality standards are applicable may be added to the New G.O. 133-D as a new section 2.2. See Attachment A to these comments, at A-3.

⁹ See Draft New G.O. 133-D, §§ 3.1 & 3.2.

¹⁰ See ORA Comments on Staff Proposal, at 33.

The only argument made against the application of installation standards to non-GRC carriers was that effective competition ensured that these carriers would seek to install service in a timely manner, such that installation standards are not needed for them.¹¹ However, the APD acknowledges that the chronic violations of service quality standards by some carriers demonstrate that competition has not been sufficient to ensure quality service.¹² Thus, there is no rationale for continuing the exemption of non-GRC carriers from the installation standards and reporting.

The APD and the New G.O. 133-D should be modified to require reporting of Installation Intervals and Installation Commitments from all classes of carriers without exemptions; these modifications are provided in Attachment A below.

IV. CONCLUSION

The APD adopts rules that would better allow the Commission to monitor the service quality of telecommunications services in California and to better incentivize carriers to provide safe and reliable service consistent with their statutory duties as public utilities. For these reasons, ORA strongly supports the APD and urges that the Commission adopt it with the modifications proposed herein in Attachment A.

¹¹ See *e.g.* Reply Comments of AT&T on Staff Proposal, at 19.

¹² See APD at 9.

Respectfully submitted,

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ATTACHMENT A

ORA's Proposed Revisions to the June 2016 Alternate Proposed Decision

Modified Findings of Fact

10. Public safety requires that this Commission exercise its authority under Public Utilities Code Section 710 (f), to “monitor and discuss VoIP services” by requiring VoIP providers to submit NORS reports and reports on service quality standards to this Commission.

Proposed Additional Findings of Fact

- Timely installation of voice services is a matter of public safety.
- Service quality standards should be, as much as practicable, technology neutral.
- Many significant service outages in rural areas may not meet the outage reporting threshold of 900,000 user-minutes applicable to the Network Outage Reporting System.
- Lowering the outage reporting threshold of 900,000 user-minutes to 75,000 user-minutes only in rural areas will not overextend outage reporting capabilities.
- The September 24, 2014, Staff Report showed that the largest carriers in California, AT&T and Verizon, which collectively operated approximately 88% of telephone lines in California reported under GO 133-C, failed to meet the minimum standard of repairing 90% of all out of service trouble reports within 24 hours for every month between 2010 and 2013.
- The September 24, 2014, Staff Report showed that between the years 2010 to 2013, AT&T and Verizon provided corrective action reports for each quarter they missed the adopted measures and related minimum standard.
- The filing of corrective action plans by AT&T and Verizon did not result in improvements significant enough to meet the minimum standard for the out of service repair interval measure.

- The chronic failure of many carriers to meet minimum service quality measures and standards demonstrates that competition has not been sufficient to ensure quality service.

- Allowing carriers to suspend the penalties that accrue to them for chronic failure to meet service quality standards undercuts the effectiveness of the penalty mechanism.

Modified Conclusions of Law

8. Public Utilities Code Section 710(f), permits this Commission to “monitor and discuss VoIP services” and this provision gives this Commission the authority to require interconnected VoIP providers to submit NORS reports and reports for all of the service quality standards of G.O. 133-D to this Commission.

9. The Commission should exercise its authority under Public Utilities Code Section 710(f), to “monitor and discuss VoIP services” by requiring VoIP providers to submit NORS reports and reports for all of the service quality standards of G.O. 133-D to this Commission.

Proposed Additional Conclusions of Law

- Applicability of the Installation Interval and Installation Commitment service quality measures should not be limited to only General Rate Case incumbent local exchange carriers.

- An outage reporting threshold of 75,000 user-minutes provides an appropriate level of granularity for identifying significant service outages in rural areas, while still maintaining an efficient and effective reporting system.

- Interconnected VoIP carriers operate, control, or manage “telephone lines” as defined in Pub. Util. Code section 233 in their provision of interconnected VoIP service.

- Wireless carriers operate, control, or manage “telephone lines” as defined in Pub. Util. Code section 233 in their provision of wireless service.

- Wireless and interconnected VoIP service providers are “telephone corporations” as defined in Pub. Util. Code § 234.

• Pub. Util. Code §§ 2896 and 2897 mandate that the Commission ensure that telephone corporations, including wireless and interconnected VoIP telephone corporations, provide customer service that meets reasonable statewide service quality standards, including, but not limited to, standards regarding network technical quality, customer service, installation, repair, and billing.

• Section 706(a) of the 1996 Federal Telecommunications Act provides the express statutory authority required by Pub. Util. Code § 710(a) for the Commission to require interconnected VoIP providers to meet service quality standards pursuant to Pub. Util. Code § 2896.

• Pub. Util. Code §§ 2896 and 2897 provide the express statutory direction required by Pub. Util. Code § 710(a) for the Commission to apply service quality rules over VoIP services.

Proposed Modifications and Additions to General Order 133-D

1.2 Applicability. These rules are applicable to all ~~public-utility~~ telephone corporations providing service within the State of California, except as otherwise noted.

2.3 Section 3 Applicability. The reporting requirements and standards in Section 3 apply to all facilities-based carriers with 5,000 or more customers. For interconnected VoIP providers, Section 3 only applies to those facilities-based carriers with 5,000 or more customers that:

a) Have been granted a CPCN by the Commission, and
b) Are designated as an ETC by either the Federal Communications Commission or this Commission to receive federal high-cost support and or low-income support, and/or

c) Are authorized to provide California LifeLine service.

3.1 Installation Interval – ~~Applies to GRC ILECs.~~

3.2 Installation Commitments – ~~Applies to GRC ILECs.~~

3.3 Customer Trouble Reports – ~~Applies to GRC ILECs and facilities-based URF Carriers with 5,000 or more customers and to any URF Carrier with fewer than~~

~~5,000 customers that is a COLR.~~ Trouble reports apply to residential and business customers.

3.4 Out of Service Repair Intervals – ~~Applies to GRC ILECs, facilities-based URF Carriers with 5,000 or more customers, and to any URF Carrier with fewer than 5,000 customers that is a COLR.~~

3.5 Answer Time for trouble reports and billing and non-billing inquiries – ~~applies to GRC ILECs, facilities-based URF Carriers with 5,000 or more customers, and any URF Carrier with fewer than 5,000 customers that is a COLR.~~